

VZCZCXR07174

PP RUEHCD RUEHGD RUEHHO RUEHMC RUEHNG RUEHNL RUEHRD RUEHRS RUEHTM

DE RUEHME #5323/01 2772222

ZNR UUUUU ZZH

P 042222Z OCT 07

FM AMEMBASSY MEXICO

TO RUEHC/SECSTATE WASHDC PRIORITY 9123

INFO RUEHXC/ALL US CONSULATES IN MEXICO COLLECTIVE PRIORITY

RUEHBJ/AMEMBASSY BEIJING PRIORITY 0426

RUEHCN/AMCONSUL CHENGDU PRIORITY 0011

RUEHGZ/AMCONSUL GUANGZHOU PRIORITY 0048

RUEHHK/AMCONSUL HONG KONG PRIORITY 0325

RUEHGH/AMCONSUL SHANGHAI PRIORITY 0015

RUEHSH/AMCONSUL SHENYANG PRIORITY 0018

RUEHC/DEPT OF LABOR WASHDC PRIORITY

RUCPDOC/DEPT OF COMMERCE WASHDC PRIORITY

RUEATRS/DEPT OF TREASURY WASHDC PRIORITY

RUEAHLA/DEPT OF HOMELAND SECURITY PRIORITY

RHEHNSC/NSC WASHDC PRIORITY

UNCLAS SECTION 01 OF 03 MEXICO 005323

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STATE PASS USTR FOR

EISSENSTAT/STRATFORD/QUEENBERRY/MELLE/SHIGET OMI/MILLER

COMMERCE FOR ITA/OTEXA

TREASURY FOR IA (ALICE FAIBISHENKO, ANNA JEWEL)

NSC FOR RICHARD MILES, DAN FISK, DENNIS WILDER

STATE PASS TO FEDERAL RESERVE (CARLOS ARTETA)

E.O. 12958: N/A

TAGS: ETRD KTEX WTO ELAB MX CH

SUBJECT: MEXICO REVIEWING ANTIDUMPING DUTIES ON CHINA,
PREPARING FOR POSSIBLE WTO DISPUTE

REF: (A) MEXICO 616 (B) MEXICO 5240 (C) BEIJING 5700

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Summary

¶1. (SBU) Mexican trade officials have begun to review many of the anti-dumping (AD) duties currently in place versus Chinese imports, with an eye to starting reviews of the rest before the December 11 expiration of Mexico's immunity from Chinese WTO litigation. Mexico believes it will be able to eliminate many of the duties and put those that will remain on stronger legal footing to withstand an expected WTO complaint from China. The review process for the most sensitive products (mostly textiles and apparel) will take from 12 to 18 months. Mexico does not intend to link this issue to its own pending WTO complaints versus Beijing on export subsidies and intellectual property rights (IPR). While there is predictable pressure from many Mexican manufacturers and labor unions to maintain high tariff barriers on PRC imports, there are some who seek cheaper legal inputs. Government officials also recognize that eliminating many of the outdated and WTO-inconsistent AD duties on Chinese imports will reduce workload on import administration and customs officials and remove much of the incentive for corruption and contraband. End summary.

Mexican WTO Immunity Nears Its End

¶2. (U) As reported in REF A, Mexico was the last country to conclude a bilateral WTO accession agreement with China, and before signing, Mexico extracted from China a pledge to refrain from filing WTO suits against Mexican trade remedies for six years from the date of its accession, i.e., until

December 11, 2007. (Note: REF A incorrectly reported the date as January 1, 2008. End note.) Mexico had good reason for negotiating this concession -- at one point it had slapped prohibitively high anti-dumping (AD) duties on several thousands of individual tariff lines of Chinese imports. Over the past five years, Mexico has eliminated many of these (almost certainly WTO-inconsistent) duties, but it still has AD penalties in place on roughly 1,000 tariff lines of Chinese imports, some stretching back as far as the early 1990s. Around 800 of these tariff lines are for man-made fibers, textile, or apparel products. These sectors in Mexico surged between 1994 and 2000 with the implementation of the North American Free Trade Agreement, but have shrunk back considerably since the beginning of this decade, due in large part to China's 2001 WTO accession and its huge export boom, together with the end of the Multi-Fiber Agreement and the rise of other Asian manufacturing powers (REF B).

¶3. (SBU) Mexico's game plan for making the transition to a WTO-consistent approach to AD duties on Chinese products starts with initiating reviews of all the cases currently in force before December 11. These are divided into seventeen groups of goods, and the Secretariat of the Economy (SE) had already started reviews on nine of these groups as of the third week of September. According to an official in SE's trade remedies unit, it should take two months to reach preliminary determinations, but as long as 12-18 months for final resolution of the most sensitive product categories. Mexico will almost certainly end up eliminating AD duties on a large number of Chinese products, and for those products that will remain subject to AD duties, SE is considering starting over its AD procedures from scratch on a product-by-product basis rather than simply renewing the existing cases, almost all of which are on very shaky legal standing. By making a good faith effort to review and

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differentiate its treatment of various Chinese imports based on international rules, Mexico feels that it will be in a strong position to defend itself should Beijing decide to initiate a WTO dispute post-December 11, which Mexico considers probable.

To Link or Not to Link

¶4. (SBU) A Chinese embassy official told econoff that Beijing would naturally prefer that Mexico simply eliminate its duties on PRC imports before December 11, rather than merely beginning reviews by that date. However, the official refused to be drawn out on China's likely course of action if, as seems will be the case, Mexico is still a year and a half away from final resolutions on a number of sensitive products come December 11. REF C reported on the frosty reception experienced by a visiting Mexican trade official due to Mexico's decision to participate in the U.S.-initiated WTO complaint against poor Chinese protection of intellectual property rights -- the Mexican press has reported on Beijing's official negative reaction to Mexican participation in both the IPR case and another U.S.-initiated complaint against Beijing related to export subsidies, saying Mexico's decisions were founded on ignorance of the facts and domestic political factors. Regarding a potential connection between the export subsidy and IPR cases on the one hand and a possible PRC case versus Mexican AD duties on the other, our SE contact was adamant that SE would not/not allow these cases to be linked. Mexico felt it had strong arguments on both export subsidies (for which it has asked to form a WTO panel) and IPR (on which it will participate as a third-party) and was ready to let the chips fall where they may on any complaint the Chinese may lodge against Mexican AD duties.

Industry, Union and SE Views on AD Duties

¶ 5. (SBU) A number of Mexican industrialists in the textile, apparel, and footwear sectors are lobbying the Mexican Congress and SE to maintain protective tariffs on PRC goods, which they routinely accuse of benefiting from unfair Chinese competition. Likewise, Mexican labor unions in these industries unanimously favor maintaining the high AD duties. They are concerned, probably with just cause, that the 500,000 jobs in these industries will be at even greater risk if the tariffs are removed. A number of Mexican legislators have adopted this rhetoric in public, saying Mexico should not have to compete against those who do not follow the rules. SE claims that it has gained tacit acceptance from interested legislators to proceed with its current plan, noting that producers with evidence of foul play should present it to SE and cooperate in building a WTO-consistent case for compensatory measures.

¶ 6. (SBU) On the other side, there are many Mexican manufacturers who would welcome cheaper legal inputs from China (thus helping keep down their own costs) and are thus pushing for elimination of AD duties. In many cases, there are no remaining Mexican producers of the goods in question, making it easy for SE to cease punitive treatment of those tariff lines. In fact, SE has lost a number of domestic legal suits filed against it by Mexican producers complaining that many of these AD duties are illegal under Mexican law and detrimental to Mexican competitiveness. Apart from strictly commercial considerations, SE believes that cleaning up the large number of questionable trade remedy cases against China will not only put Mexico right with WTO rules, but will reduce workload for SE and Customs officials and,

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perhaps most importantly, eliminate what is currently a huge incentive for contraband trade and official corruption at ports of entry. Our SE contact noted that the illegality generated by such prohibitively high tariffs spreads even further -- many legitimate Mexican apparel makers produce super cheap lines of clothing that they do not report in their official books (or pay taxes on) in order to compete against the equally cheap Chinese contraband apparel that can be found in Mexico's ubiquitous informal markets.

Comment

¶ 7. (SBU) We suspect that the pro-free trade Calderon administration is happy to finally embark on the path of ending a particularly egregious and long-standing case of Mexican protectionism, and that it will make a sincere effort to construct WTO-consistent arguments to sustain those AD cases against China that survive the review process. Whether China will give Mexico until mid-2009 to resolve all the outstanding cases before resorting to WTO dispute resolution remains to be seen, but such a move would be based more on political considerations than commercial ones, since it is hard to imagine that Beijing would achieve a satisfactory judgment via the WTO much sooner than mid-2009 in any case.
End comment.

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